

## REMARKS

In the Office Action, the Examiner rejected claims 1 – 39 as directed to non-statutory subject matter, and rejected claims 1 – 39 as obvious over Movalli in view of Walker and Teper.

On page 3, line 1, of the action, the Examiner cites to the prior art of Beattie et al. Applicant is unable to locate the Beattie reference. Clarification is requested.

### 35 USC §101

The claims have been amended to provide for storing the transaction code in the memory of the wireless communication device and for using the wireless communication device to transmit the transaction code to an order processing system, for example, see claim 1. The method therefore is tied to other statutory classes of the art and so is directed to statutory subject matter. Similar changes tying the methods to other statutory classes are presented in independent claims 3, 4, 14, 18, 25, and 37.

Claims 40 – 43 have been added to provide that the commercial transaction is a food order and that the steps of executing the commercial transaction includes preparing food items for consumption according to the food order. The food is thereby transformed according to the method, and so the method is directed to statutory subject matter.

Applicant respectfully submits that the rejection is overcome.

### 35 USC §103(a)

The **Movalli** et al. reference discloses a smart card credit card that receives transaction data and generates a unique code. The smart card is used at a point of sale location to provide a secure endorsed transaction. In an alternative in paragraph 0039, Movalli discloses a workstation at a remote location with electrical connections to an identification input device.

The **Teper** device discloses an on-line brokering service accessed via a user's computer and at col. 3, lines 5 – 18, discloses a challenge-response authentication sequence to authenticate the identity of the user. Once a user is authenticated, the user can make on-line purchases such as software downloads and access to online publications, col. 3, lines 31 – 39.

The **Walker** reference teaches to purchase catalog goods through a catalog merchant and the purchaser pays for the catalog purchase at a local store. As pointed out by the

Examiner, paragraphs 0044 and 0045 disclose a remote seller system connected to the buyer via a data link.

The present method provides for the use of a wireless communications device which is capable of operation on a wireless communication network. The present method distinguishes over Movalli and the combination with Teper and Walker by using a wireless communication device.

Moreover, the present method provides that the memory of the wireless communications device stores the vendor identity code as well as the transaction code which includes a customer identification, authentication data, and transaction identification data. By storing the vendor identity code and transaction code in the memory, it become possible to transmit the transaction code to the order processing system associated with the vendor so that the transaction is executed. In one example, the transaction is a food order that is transmitted by the customer using the transaction code so that the food item is readied for pick up or delivery according to the information in the transaction code.

The claims are directed to various aspects of the method. In claim 1, the vendor identity code is transmitted to the customer's wireless communication device. The vendor identity code includes either a telephone dialing sequence, a network address or a text message. The vendor code and transaction code is stored in the memory of the wireless device. The transaction code is transmitted to the vendor with enables an identification of the customer, an authentication of the customer, and an identification of the commercial transaction being requested.

In claim 3, the vendor identity code has been stored in the wireless device memory and includes a network address and the transaction code includes a URL. In claim 4, the vendor identification is a dialing sequence and the transaction code is transmitted via a wireless network. In claim 14, the vendor information is a dialing sequence and the transaction code is also a dialing sequence. Claim 18 provides a method for configuring a customer wireless device for automated execution of the commercial transaction, including providing a transaction code of a dialing sequence, network address or SMS text message and storing that transaction code in a memory of the wireless device.

Claim 25 provides for transmitting the message relating to the commercial transaction to a user's wireless device if the device location meets predetermined location criteria, and then storing the message in the memory of the device. Claim 26 calls for transmitting the message to the vendor to initiate the transaction. Claim 27 calls for the location criteria to be a geographic region associated with the vendor. Claims 28 - 31 explain how the location information is obtained.

Claim 37 provides that travel by the customer is predicted and based on a predicted location the information relating to the transaction is transmitted to the customer's wireless device. Claims 38 and 39 provide additional information on this aspect of the method.

Claims 40 - 43 provide that the commercial transaction is the ordering of food and as a result of the receipt of the food order, the food is prepared for consumption.

The claimed invention therefore is a non-obvious improvement over the combined teachings of the prior art.

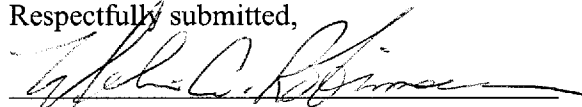
#### **Conclusion**

Applicants respectfully request favorable reconsideration and allowance of the present application in view of the forgoing.

#### **Deposit Account Information**

The Commissioner is hereby authorized to charge any additional fees which may be required or to credit any overpayment to account no. 501519.

Respectfully submitted,



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